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EXAMINER

PYZOCHA, MICHAEL J

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/821,584

Applicant(s)

RIORDAN ET AL.

Examiner

Michael Pyzocha

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,9-19 and 21-29 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6,9-19 and 21-29 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-6, 9-19, 21-29 are pending.
2. Amendment filed 04/07/2005 has been received and considered.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Switzerland on 15 December 2000. It is noted, however, that applicant has not filed a certified copy of the 00106812.1 application as required by 35 U.S.C. 119(b).

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the system and method of claims 4, 6, 8, 11, 20, 22, 24-26 must be shown with both features and both of the two features individually when containing "and/or" in the claim therefore these features must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior

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version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The system and method of claims 4, 6, 8, 11, 20, 22, 24-26 must be described in the specification with both features and both of the two features individually when containing "and/or" in the claim.

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6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The amended claims cite the limitation (or similarly presented) "a first subsystem the does not have data as to the system characteristics of individual customer systems" which is not disclosed in the specification.

Claim Rejections - 35 USC § 112

7. The claim rejections under 35 USC 112 2nd paragraph have been withdrawn based on the amended claims.

8. Claims 1-17, 21-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amended claims cite the limitation (or similarly presented) "a first subsystem the does not have data as to the system characteristics of individual customer systems" which is not disclosed in the specification.

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Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Wollrath et al ("Simple Activation for Distributed Objects").

As per claim 18, Wollrath discloses a method for providing activation information by a service provider with a first subsystem to a customer with a second subsystem comprising the step of: providing activation tokens by said service provider, wherein said activation tokens include readable activation information and naming of corresponding system characteristics in machine readable and filterable manner (see right column of page 8).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wollrath as applied to claim 18 above, and further in view of Tardo et al (U.S. 6,557,105).

As per claim 19, Wollrath fails to disclose means for providing activation tokens include cryptographic means for encrypting the activation tokens and signing means for producing a verification information like a signature, to be verified by said second subsystem of said customer.

However Tardo et al discloses encrypting and signing a token (see column 5 line 58-67).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Tardo et al's method of encrypting and signing a token for Wollrath's activation token.

Motivation to do so would have been to verify the authenticity or validity of the token (see Tardo et al column 5 lines 17-25).

12. Claims 1, 3, 5-6, 10, 12-14, 17, 21, 23-24, 26, 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norton AntiVirus for Windows 95/98 User's Guide (Hereinafter Norton) and further in view of Wollrath.

As per claims 1 and 21, Norton discloses means for providing activation tokens to be transmitted to at least two

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customer with a second subsystem for receiving said activation tokens, said means for providing activation tokens including means for providing activation information, wherein the relevance of said activation information to said second subsystem can be determined by checking whether said second subsystem has characteristics corresponding to said naming of said activation token so that receipt by a customer system of an activation token does not indicate whether that token is relevant to the second subsystem of the customer (see page 38 where the update is the token).

Norton fails to disclose and means for naming of system characteristics in machine readable and filterable manner.

However, Wollrath teaches machine readable and filterable characteristics (see page 8).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Wollrath's naming method in Norton's updating system.

Motivation to do so would have been to initiate a process (see page 8).

As per claims 3 and 10, the modified Norton and Wollrath system discloses the system as described above in claims 1 and 21 further including the second subsystem receiving both tokens relevant and not relevant to the subsystem (see Norton pages 37-

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39 where a user is capable of downloading the update before the update is emailed to the user and therefore when the emailed update is received it is no longer relevant).

As per claims 5 and 23, the modified Norton and Wollrath system discloses the system of method comprising transforming means include at least one set of filter parameters to enable transforming of said relevant activation information into at least one acceptable activation measure (see Wollrath page 12 right column to page 13 left column where the filter is whether the object is "managed" or not).

As per claims 6 and 24, the modified Norton and Wollrath system discloses the system and method where the second subsystem includes implementation means for implementing at least one activation measure (see Wollrath page 7 #2-4) and method where the implementation means include at least one reporting means for reporting implemented activation measures (see Wollrath page 7 #5).

As per claim 12, the modified Norton and Wollrath system discloses the transforming means include at least one set of filter parameters to enable transforming of said relevant activation information into at least one acceptable activation measure (see page 12 right column to page 13 left column where the filter is whether the object is "managed" or not).

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As per claim 13, the modified Norton and Wollrath system discloses the second subsystem includes implementation means for implementing at least one activation measure (see page 7 #2-4).

As per claim 14, the modified Norton and Wollrath system discloses the implementation means include at least one reporting means for reporting implemented activation measures (see page 7 #5).

As per claims 17 and 26, the modified Norton and Wollrath system discloses the system and method is reducing the vulnerability of said second subsystem by automatically implementing activation measures at said second subsystem (see page 7 #2-4).

As per claims 28-29, the modified Norton and Wollrath system discloses the computer program code of the method (see page 13 right column).

13. Claims 2, 4, 11, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Norton and Wollrath system as applied to claims 3, 10, 21 above, and further in view of Tardo et al (U.S. 6,557,105).

As per claims 4, 11, 22, the modified Norton and Wollrath system fails to teach receiving means include cryptographic means for verifying said service provided as being the provider of said activation token and admitting means for controlling

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whether said service provider is legitimated to send activation tokens to said customer.

However, Tardo et al teaches such limitations (see Tardo et al column 6 lines 1-44).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Tardo et al's method of cryptographically checking a token for the modified Norton and Wollrath's activation token.

Motivation to do so would have been to verify the authenticity or validity of the token (see Tardo et al column 6 lines 1-44).

As per claim 2, the modified Norton, Wollrath and Tardo et al system discloses encrypting and signing a token (see Tardo column 5 line 58-67).

14. Claims 15, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Norton and Wollrath system as applied to claim 3, 10, 18 and 21 above, and further in view of Teng et al (U.S. 6,094,679).

As per claims 15, 25 the modified Norton and Wollrath system fails to disclose checking the version, platform and/or a configuration corresponding to the naming of the activation token.

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However, Teng et al discloses checking the version, platform, and configuration of a network client when activating a process (see column 7 line 52 through column 8 line 12).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Teng et al's system of checking the version, platform, and configuration in the modified system of Norton and Wollrath.

Motivation to do so would have been make sure the process being activated is compatible with the client (see Teng et al column 4 lines 5-10).

15. Claims 9, 16, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Norton and Wollrath system as applied to claims 3 and 10 above, and further in view of Tschudin ("Apoptosis-the Programmed Death of Distributed Services").

As per claims 9 and 16 the modified Norton and Wollrath system discloses the use of a daemon (see page 7 #2).

The modified Norton and Wollrath system fails to disclose the checking means and transforming means of said second subsystem are part of an apoptosis system.

However Tschudin discloses the use of an apoptosis system (see pages 256-257)

At the time of the invention it would have been obvious to a person of ordinary skill in the art to the apoptosis system of Tschudin in the modified system of Norton and Wollrath.

Motivation to do so would have been to all for the "programmed death" of a service (see page 254).

As per claim 27, the modified Wollrath and Tschudin system discloses the ability to shutdown a service at the second subsystem (see Tschudin page 254).

Response to Arguments

16. Applicant's arguments with respect to claims 1-17, 21-29 have been considered but are moot in view of the new ground(s) of rejection.

17. Applicant argues the rejection of claim 18 is moot in view of the amendments, however not amendment was made to claim 18 therefore the rejection stands.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER**

MJP